



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,298	02/28/2002	Brian P. LaMothe	1787-70800	7536
23505	7590	11/23/2007		
CONLEY ROSE, P.C. David A. Rose P. O. BOX 3267 HOUSTON, TX 77253-3267			EXAMINER NGUYEN, MINH DIEU T	
			ART UNIT 2137	PAPER NUMBER
			MAIL DATE 11/23/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10085298	2/28/02	LAMOTHE ET AL.	1787-70800

CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

EXAMINER

Minh Dieu Nguyen

ART UNIT	PAPER
2137	11192007

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The corrections are made in response to the request by the Board of Patent Appeals and Interferences

1. Claim 14 are included under the heading of "Claims 8, 10, 14 and 62 that are rejected under 35 U.S.C 103(a) as being unpatentable over Mustafa (2003/0028786) in view of Allen et al. (2001/0034567)". Claim 14 was on page 7 of the Examiner's Answer dated 10/18/2006, no new ground of rejection has been introduced.
2. Two non-patent references are included in the Evidence Relied Upon. These references were listed on PTO-892 dated 11/2/2005.

Gilberto Barron Jr
GILBERTO BARRON JR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/085,298
Filing Date: February 28, 2002
Appellant(s): LAMOTHE ET AL.

MAILED

NOV 23 2007

Technology Center 2100

Mark E. Scott
Registration Number: 43,100
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/26/06 appealing from the Office action mailed 5/15/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2003/0028786	Mustafa	7-2001
2001/0034567	Allen et al.	1-2001
5,812,662	Hsu et al.	9-1998

Microchip Technology, Microchip 25AA040/25LC040/25C040, 1997, pages 1-20.

Freescale Semiconductor, Inc. MPC862SR, 2003, pages 1-6

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10, 14 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mustafa (2003/0028786) in view of Allen et al. (2001/0034567).

a) As to claim 8, Mustafa discloses a method and apparatus for preventing unauthorized reproduction and/or execution of the protected software comprising a computer system (see Mustafa, Fig. 1A, element 5), Mustafa also discloses computer means essentially any type of computing device or machine that is capable of running a software product (see Mustafa, page 8, paragraph [0073]), therefore the computer system anticipates a microcontroller having the ability to execute programs stored on a

first non-volatile storage device (i.e. CD-ROM, see Mustafa, Fig. 19), the microcontroller also having a second non-volatile storage device coupled to the microcontroller (i.e. dongle storing license terms, see Mustafa, Fig. 1A, element 10), a method comprising accessing a key entry stored on the second non-volatile storage device, the key entry identifying programs on the first non-volatile storage device licensed for execution on the microcontroller and limiting use of the programs stored on the first non-volatile storage device based on the key entry on the second non-volatile storage device (see Mustafa, Fig. 2).

Mustafa does not specifically disclose the plurality of executable programs stored in the first non-volatile storage device comprising at least a program to perform flow calculations, a program to perform PLC functions, and a program to perform RTU functions.

Allen is relied on for the teaching of the plurality of executable programs stored in the first non-volatile storage device (i.e. updated versions of software applications installed on site management module, see Allen, Fig. 9, element 904, the site management module is the implementation of the computing machine (Fig. 3, element 510) and corresponds functionally to the site management module (Fig. 5, element 76) as disclosed in paragraphs 0106, 0111) comprising at least a program to perform flow calculations (see Allen, paragraph 0072), a program to perform PLC functions (PLC functions, as best understood, are monitored and control functions, see Allen, paragraph 0072), and a program to perform RTU functions (see Allen, paragraphs 0063, 0071, the computing device (Fig. 4, element 16) corresponds functionally to site

management module (Fig. 5, element 76), RTU functions, as best understood, are remote terminal unit (see specification of instant application, Lamothe, paragraph 0022).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of the plurality of executable programs stored in the first non-volatile storage device comprising at least a program to perform flow calculations, a program to perform PLC functions, and a program to perform RTU functions in the system of Mustafa, as Allen teaches so these valuable programs can be properly protected and utilized.

b) As to claim 10, Mustafa, as modified above discloses wherein accessing a key entry (i.e. license terms) stored on the second non-volatile device further comprises reading the key entry from the second non-volatile storage device across an interface bus (i.e. I/O port, see Mustafa, page 2, paragraph 0037).

c) As to claim 14, the examiner takes official notice that use of inter-integrated circuit bus in serial interfacing peripherals chips to microcontrollers is quite well-known in bus interfacing.

Inter-integrated circuit bus is a serial interface standard defined by Phillips Semiconductor in the early 1980's.

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of inter-integrated circuit bus in the system of Mustafa so as to maximize system efficiency.

d) As to claim 62, Mustafa, as modified above discloses the microcontroller limits the number of instances of the flow program to perform flow calculations, the limit

based on license information on the second non-volatile storage device (see Mustafa, page 1, paragraphs 0008 and 0010).

Claims 9, 11-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mustafa (2003/0028786) in view of Allen et al. (2001/0034567) and further in view of Hsu et al. (5,812,662).

Mustafa discloses second non-volatile storage device (i.e. dongle storing license terms) and reading the key entry across an interface bus (i.e. I/O port anticipates serial peripheral interface). However he does not specifically disclose the second non-volatile storage device comprises a read only memory device (ROM) device (claim 9) and wherein reading the key entry from the ROM device comprises reading a serial EEPROM (claims 11-12).

Hsu discloses a method and apparatus to protect computer software comprising dongle with non-volatile memory (i.e. EEPROM, ROM, EPROM, flashROM) (see Hsu, col. 2, lines 55-64; col. 6, lines 60-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of second non-volatile storage device comprising a ROM and/or EEPROM in the system of Mustafa and Allen, as Hsu discloses so as to safely hold the license terms when power is lost.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mustafa (2003/0028786) in view of Allen et al. (2001/0034567) in view of Hsu et al. (5,812,662) and further in view of Microchip Technology Inc.

Mustafa and Allen do not specifically disclose the serial EEPROM comprises a part number 25LC040-I device manufactured by Microchip Technology Incorporated. Hsu discloses serial EEPROM comprises a part number 93C46. However he does not disclose the serial EEPROM comprises a part number 25LC040-I device manufactured by Microchip Technology Inc.

Microchip discloses serial EEPROM 25LC040-I designing to interface directly with the serial peripheral interface port of many popular microcontroller (datasheet).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of Microchip 25LC040-I in the system of Mustafa, Allen and Hsu, as Microchip discloses so as to improve the system performance.

(10) Response to Argument

a) Appellant, on page 10 of the brief, argues Mustafa and Allen fail to teach "a first non-volatile storage device ... a program to perform flow calculations, a program to perform PLC functions, and a program to perform RTU functions ...".

Allen is relied on for the teaching of the plurality of executable programs stored in the first non-volatile storage device (i.e. updated versions of software applications installed on site management module, see Allen, Fig. 9, element 904, the site management module is the implementation of the computing machine (Fig. 3, element

510) and corresponds functionally to the site management module (Fig. 5, element 76) as disclosed in paragraphs 0106, 0111) comprising at least a program to perform flow calculations (see Allen, paragraph 0072), a program to perform PLC functions (PLC functions, as best understood, are monitored and control functions, see Allen, paragraph 0072), and a program to perform RTU functions (see Allen, paragraphs 0063, 0071, the computing device (Fig. 4, element 16) corresponds functionally to site management module (Fig. 5, element 76), RTU functions, as best understood, are remote terminal unit (see specification of instant application, Lamothe, paragraph 0022).

b) Appellant, on page 11 of the brief, argues the three distinct programs (i.e. a program to perform flow calculations, a program to perform PLC functions, and a program to perform RTU functions) reside and execute at the end-user devices of Allen, not in the network management system.

In paragraph 0111, Allen discloses the updated versions of software applications installed on site management module (i.e. SMM, Fig. 9, element 904), those software applications are needed to enhance the functionality of SMM with newly added application programs (see Allen, paragraph 0114). The Allen reference therefore discloses the application programs (i.e. three distinct programs are downloaded, installed and executed in the SMM unit) to meet the limitation of flow, PLL and RTU programs on a storage device coupled to microcontroller.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Application/Control Number:
10/085,298
Art Unit: 2137

Page 10

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

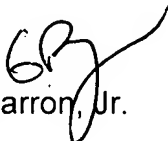


Minh Dieu Nguyen

Patent Examiner, Temporary Grant of Full Signatory Authority

November 20, 2007

Conferees:



Gilberto Barron, Jr.

Supervisory Patent Examiner

Art Unit 2132

Christopher A. Revak

/Christopher Revak/

Primary Examiner

Art Unit 2131